

REMARKS/ARGUMENTS

Favorable reconsideration of this application is requested in view of the above amendments and in light of the following remarks and discussion.

Claims 1, 4, 6-8, 11, 13-15, and 25-27 are pending in the application. Independent Claims 1, 7, 8, and 14 are amended to clarify that the second direction is at an oblique angle to the surface of the underlayment.

In the Office Action Claims 1, 4, 6-8, 11, and 13-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicant's Prior Art Figures 17-21 in view of U.S. Patent No. 2,249,125 to Gabriel, Japanese Publication No. 11-293890 to Katsuyuki, and German Publication No. 33 04 806 to Helfrecht. These rejections are respectfully traversed.

The Claims Recite Sufficient Structure to Distinguish a Screw Hole From a Nail Hole.

Applicant traverses the Office Action's assertion on page 7, paragraph 2 that there is insufficient structure in the holes, as claimed, to distinguish the nail holes from the screw holes. Independent Claims 1, 7, 8 and 14 clearly recite and Fig. 2B clearly shows, the differences between a screw hole and a nail hole. In particular, the screw hole is perpendicular to a surface of the underlayment and the nail hole is at an oblique angle to the surface of the underlayment.

Katsuyuki Does Not Disclose a Nail Hole

The Office Action asserts that Katsuyuki discloses a screw hole formed on one side of the support portion and a nail hole formed on the opposite side of the support portion from the screw hole on page 5, lines 5-6 of the Office Action. However, the English machine translation of Katsuyuki, at paragraph 14, clearly discloses that holes 11 and 12 are screw holes.

Furthermore, screw holes 11 and 12 of Katsuyuki are not appropriate for use as nail holes. From the view of strength and constructionability, a nail must be fixed diagonally,

oblique to an underlayment, and downward and a screw must be fixed vertically or perpendicular to an underlayment. Thus, a nail hole is consequently formed on a sloped portion and a screw hole is consequently formed on the lower abutting portion, which is a vertical, flat surface. Thus, it is apparent that a nail hole is formed on the sloped portion and a screw hole is formed on the lower abutting portion.

The Combination of the Recited References Would Not Result in the Features of Independent Claims 1, 7, 8 or 14

Applicant respectfully disagrees with the Office Action's assertion at page 7, that the combination of the references would result in a nail and screw hole equidistant from the support portion with the nail hole being on a sloped portion. Katsuyuki discloses slope portion 7 at Fig. 1. If the nail hole of Applicant's prior art shown in Figs. 17-21 of the specification were incorporated into Katsuyuki and placed on the sloped portion 7, then the resulting modification would not have a nail and screw hole equidistant from the support portion. Instead, the nail hole disposed on sloped portion 7 would be closer to the support portion than screw holes 11 or 12. Thus, the combination of the references do not result in the features of the independent claims.

As discussed in the specification at page 4, line 8 *et seq.* when the distance between the support portion and the nail hole and the support portion and the screw hole are different, the fixing force will differ. None of the applied references recognize this problem, which is solved by the features of the independent claims. Although Katsuyuki discloses screw holes 11 and 12 located equidistant from the support portion 2, the sloped portion 7 is closer to the support portion 2 than the screw hole 11.

Consequently, in view of the present Amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.

Application No. 09/930,212
Reply to Office Action of July 13, 2005.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.


Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
MB/rac

I:\ATTY\MB\21'S\212905US\AM1A.DOC



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Michael Britton
Registration No. 47,260